

COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. **05-MSRC-012**

COMMONWEALTH OF KENTUCKY,
OFFICE OF MINE SAFETY AND LICENSING

COMPLAINANT

FINAL ORDER

ANN EPPERSON

RESPONDENT

* * * * *

This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant, Office of Mine Safety and Licensing (OMSL) and Respondent **ANN EPPERSON**, and the members of the Commission having reviewed the Settlement Agreement filed on February 6, 2006 in the matter herein, and the Commissioners being sufficiently advised,


IT IS HEREBY **ORDERED** as follows:

1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The formal hearing and pre-hearing conference are **CANCELLED**;
3. The **Settlement Agreement** signed by the parties and filed with the Commission is hereby **incorporated by reference** as if reproduced herein in full as a material part of this **FINAL ORDER**.
A copy is attached hereto;

4. This Final Order only resolves the matters referenced herein, and any new enforcement action or subsequent penalties imposed during any probationary period are in addition to and not in lieu of those that may be sought by OMSL for the acts or omissions during that probationary period. This Final Order in no way prohibits OMSL from investigating or filing legal action based upon other activities or omissions by the Respondent not arising from the factual basis of the original violation and resolved herein.
5. This Final Order shall be considered to constitute a “first offense” as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent, resulting in an adjudication of guilt by the Commission, shall be deemed “subsequent offenses” as defined by 805 KAR 8:010, Section 1(13);
6. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, in these matters. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission; and
7. Appellate rights: Pursuant to KRS 351.194(8) and KRS 13B.140(1), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of this Final Order. The petition shall include the names and addresses of all parties of record in this proceeding and shall include a statement of the grounds upon which review is requested. A copy

of this Final Order shall accompany the petition. Copies of the petition must be served upon the Commission and all parties of record in this proceeding.

Entered this the 9TH day of FEB. 2006.

A handwritten signature in black ink, appearing to read 'DM Davidson', written over a horizontal line.

Denise Moore Davidson, Chair
MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ORDER was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this 10TH day of FEB. 2006:

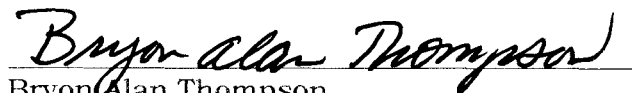
ANN EPPERSON
P.O. BOX 205
BIG LAUREL, KY 40808

And by messenger mail to:

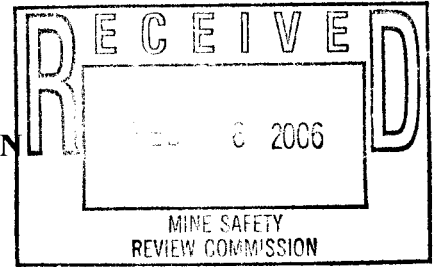
HON. C. MICHAEL HAINES,
GENERAL COUNSEL
OFFICE OF LEGAL SERVICES
NATURAL RESOURCES LEGAL DIVISION
#2 HUDSON HOLLOW
FRANKFORT KY 40601
502/ 564- 2356
FAX 502/ 564 - 9212

And the original shall be kept on file:

Mine Safety Review Commission
132 Brighton Park Blvd.
Frankfort Ky 40601


Bryon Alan Thompson
Hearing Officer & General Counsel
Mine Safety Review Commission

**KENTUCKY MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. 05-MSRC-012**



KENTUCKY OFFICE OF MINE SAFETY & LICENSING

COMPLAINANT

V. SETTLEMENT AGREEMENT BETWEEN OMSL & ANN EPPERSON

ANN EPPERSON

RESPONDENT

* * * * *

Come the Complainant, the Kentucky Office of Mine Safety & Licensing ("OMSL"), and Respondent Ann Epperson ("Epperson"), and hereby state that they have agreed to a settlement of the above-styled disciplinary proceeding, according to the following terms:

In consideration for the final resolution of this action against her, and the cancellation of the hearing (as it pertains to her) that is currently scheduled for February 9, 2006, and Epperson hereby admits that she falsely certified completion of training by an individual and provided that person with documentation allowing certification of said person without proper training in violation of those provisions of KRS Chapters 351 and 352, pertaining to the training required of certified personnel thereby creating a threat of serious injury or death to miners, as alleged in OMSL's Complaint. Therefore, Epperson hereby agrees to the following:


1. The permanent revocation of Epperson's Mining Instructor - Surface certificate (# SI-127-94), without the possibility of reinstatement.
2. The probation of all other certificates held by Epperson for a period of one (1) year. Those certificates are: MET, certificate number HN-054-97; Surface Mine Foreman, certificate number S-204-94; and, Surface Miner.

3. During this one-year probationary period, Epperson shall comply with all state and federal mine safety laws and regulations. The willful violation by Epperson of any of said laws or regulations may result in OMSL filing a motion with the Mine Safety Review Commission to revoke the probated certificates for the remainder of the probationary period.



Epperson further agrees that this Settlement Agreement and any final order issued herein by the Mine Safety Review Commission will be considered by the Commission to constitute a "first offence" against the probated certificates, as that term is defined at 805 KAR 8:010, Section 1(13).

Epperson understands and agrees that she has had the opportunity to retain an attorney to represent her in this matter, but that she has chosen to represent herself. Epperson further states that she has carefully read this Settlement Agreement (or that the Settlement Agreement has been read to her), that she has carefully considered the Agreement prior to signing it, and that she understands and agrees to its terms and provisions.

OMSL and Epperson acknowledge and agree that there are no further promises, inducements, representations, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.


Ann Epperson
P.O. Box 205
Big Laurel, Kentucky 40808

1-30-06
DATE


PARIS L. CHARLES, Executive Director 
KY Office of Mine Safety & Licensing
P.O. Box 2244
Frankfort, Kentucky 40602

2-7-06
DATE

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Settlement Agreement Between OMSL and Ann Epperson was mailed this 7TH day of FEBRUARY, 2006, to:

Ann Epperson
P.O. Box 205
Big Laurel, Kentucky 40808



C. MICHAEL HAINES, GENERAL COUNSEL

OFFICE OF LEGAL SERVICES
NATURAL RESOURCES LEGAL DIVISION
KY OFFICE OF MINE SAFETY & LICENSING